IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

MFA.No. 490 of 2001(B)
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MVOP.1058/1997 of SPL.COURT FOR EC ACT CASES &MACT,TSR
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APPELLANT:
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SURENDRAN, S/O.BALAN, PULIKKAL VEEDU,
P.O.PERAMANGALAM, THRISSUR DISTRICT.

BY ADV. SRI.P.V.CHANDRA MOHAN
SRI.T.VENUGOPALAN

RESPONDENTS:
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1. V.C.KURIAKOSE, S/O.THOMMAN CHACKO,
NCHUR KARAYIL PADINJARA VARUKUMEL, MANIYADU VILLAGE,
P.O,.PIRAVAM, MOOVATTUPUZHA, ERNAKULAM DIST.

2. THE UNITED INDIA INSURANCE CO. LTD., CITY BRANCH OFFICE,
KANNANKARI ESTATE, SHANMUGHAM ROAD, ERNAKULAM.

BY ADV. SRI.PMM.NAJEEB KHAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.**

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M.F.A.No.490 OF 2001

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Dated this the 11th day of October, 2007

**JUDGMENT**

**Radhakrishnan, J**

This appeal is filed by the appellant for enhancement in the compensation amount awarded by the Tribunal. The appellant herein was rider of the motor cycle involved in the accident. Tribunal found that there was contributory negligence on the part of the petitioner to the extent of 40%. Tribunal fixed Rs.70,000/- as total compensation but as there was 40% contributory negligence on the part of the other riders, the aforesaid sum was reduced by one half. Thus, petitioner is entitled to Rs.35,000/- as compensation with 12% interest from the date of the petition till payment. Counsel appearing for the claimant submitted that the compensation amount awarded is on the lower side. Ext.B7 indicate that the permanent disability is 15%.

2. Taking into consideration of the entire facts and circumstances of he case, we are inclined to modify the award

under the following heads: for pain and suffering : an additional amount of Rs.3,000/- ; for loss of earnings for three months : an additional amount of Rs.4,500/-. In the absence of convincing evidence regarding the exact percentage of disability, Tribunal fixed a sum of Rs.25,000/- for that head. We are inclined to grant an additional amount of Rs.10,000 on that head. Therefore, claimant is entitled to get an additional amount of Rs.17,500/- with interest at the rate of 7.5% interest from the date of the petition till payment without any deduction.

This M.F.A. is disposed of as above.

**K.S.RADHAKRISHNAN, JUDGE**

**A.K.BASHEER, JUDGE**

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